

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

TOSCAR SMITH,)
Plaintiff,)
VS.) No. 18-2876-JDT-cgc
MEDICAL DEPARTMENT AT THE)
SHELBY COUNTY CRIMINAL)
JUSTICE CENTER,)
Defendants.)

**ORDER DIRECTING PLAINTIFF TO FILE A NON-PRISONER
IN FORMA PAUPERIS AFFIDAVIT OR PAY THE CIVIL FILING FEE**

On December 26, 2018, Plaintiff Toscar Smith, a former inmate at the Shelby County Criminal Justice Center in Memphis, Tennessee, filed a *pro se* civil complaint and a motion for leave to proceed *in forma pauperis*. (ECF Nos. 1 & 2.) The Court issued an order on January 7, 2019, granting leave to proceed *in forma pauperis* and assessing the civil filing fee pursuant to the Prison Litigation Reform Act (PLRA), 28 U.S.C. §§ 1915(a)-(b). (ECF No. 5.) On February 26, 2019, the Court dismissed Smith’s complaint and granted leave to amend. (ECF No. 6.) Smith timely filed an “Amended Statement.” (ECF No. 7.) However, on May 1, 2019, Smith informed the Clerk that he is no longer incarcerated and provided his new address. (ECF No. 8.)

Under the PLRA, a prisoner bringing a civil action must pay the full filing fee required by 28 U.S.C. § 1914(a). The statute merely provides the prisoner the opportunity to make a “downpayment” of a partial filing fee and pay the remainder in monthly installments. 28 U.S.C. § 1915(b). However, in this case, none of the filing fee was paid prior to Smith’s release. Under

these circumstances, “the obligation to pay the . . . fees is to be determined solely on the question of whether the released individual qualifies for pauper status.” *McGore v. Wrigglesworth*, 114 F.3d 601, 613 (6th Cir. 1997), *partially overruled on other grounds by LaFountain v. Harry*, 716 F.3d 944, 951 (6th Cir. 2013).

Smith must either renew his pauper status or pay the civil filing fee. Therefore, he is ORDERED to submit, on or before August 21, 2019, either a properly completed and signed non-prisoner *in forma pauperis* affidavit or the \$400 civil filing fee.¹ The Clerk shall mail Smith a copy of the non-prisoner *in forma pauperis* affidavit form along with this order.

Failure to comply with this order in a timely manner will result in the dismissal of this action without further notice, pursuant to Federal Rule of Civil Procedure 41(b), for failure to prosecute.

IT IS SO ORDERED.

s/ James D. Todd
JAMES D. TODD
UNITED STATES DISTRICT JUDGE

¹ The civil filing fee is \$350. 28 U.S.C. § 1914(a). Under § 1914(b) and the Schedule of Fees set out following the statute, an administrative fee of \$50 for filing any civil case also is required. Because that additional \$50 fee does not apply if leave to proceed *in forma pauperis* is granted, only the \$350 fee was assessed in the January 7, 2019, order. However, if Smith does not renew his pauper status he will be responsible for the entire \$400 fee.